

IN THE  
UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS

WESTERN DIVISION

FILED

JUN 17 2008

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

People ex rel.

JAMES RUSSELL JOHNSON,  
Petitioner,

- vs. -

RICHARD A. MEYERS,  
Respondent,

CAUSE NO.: 08 C 50002.

RULE 60 MOTION FOR RECONSIDERATION

NOW COMES the petitioner, James Russell Johnson, to move the Court with a rule 60 motion for reconsideration. In support thereof, the petitioner represents:

1. That extraordinary rule 60 remedy is required due to the exceptional circumstances as recently discovered by the petitioner with newly obtained and discovered evidence establishing the 17<sup>th</sup> Judicial Circuit Court, Winnebago County, does not have either personal nor subject matter, Statutory and case law, jurisdiction over this petitioner;

2. The Illinois Supreme Court expressly decided this issue in the case of PEOPLE V. QUIGLEY (1998) 183 Ill.2d 1, 6-11, 697 N.E.2d 735, in which the Honorable Frederick J. Kapala was overruled;

(EXHIBIT - I.)

3. The QUIGLEY case was dismissed, as per Illinois Supreme Court mandate 82750, via the Winnebago County Assistant States Attorney, Steven J. Biagi, upon April 27, 2005, after review by Judge Rosemary Collins and Judge Richard Vidal; (Exhibit - II.)

4. The petitioner was charged with four (4) traffic citations upon June 15, 2006. The Winnebago County State's Attorneys office, via the City Attorney, presented and commenced prosecutions by Complaint upon June 16, 2006. Winnebago County Case Numbers 2006TR030245-030248;

5. That upon April 20, 2007, the petitioner, James Russell Johnson, did present an oral motion to dismiss all 2006TR charges based upon no probable cause. There are no vehicle impound, or impound records, or evidence, whereas to support the 2006TR charges and necessary to conviction of said charges, 17<sup>th</sup> Circuit Court Judge, John Young, agreed. After a short recess for the State to verify, all 2006TR charges were dismissed on State Motion; No appeal was taken;  
(Exhibit - III.)

6. That upon May 01, 2007, Assistant States Attorney, Steven Biagi, presented an illegal and defective information before 17<sup>th</sup> Judicial Circuit Court Judge, Ronald White, as per Class 4 Felony Aggravated Driving While Revoked Sentence enhancement Statute 625 ILCS 5/6-303(d-3), Case number 2007CF1671. The aforementioned 07CF1671 charge was premised upon dismissed prosecution 2006TR030246, which the Illinois Supreme Court prohibited pursuant to Compulsory joinder; The State does not contest the facts; (see order paragraph 2.)  
(Exhibit IV.)

7. That both 17<sup>th</sup> circuit Court Judge, Rosemary Collins, and the Assistant State's Attorney, Steven J. Biagi, as well as the present United States District Court judge presiding, Frederick Kafala, know, or reasonably should have known, whereas the current habeas corpus petitioner is being illegally imprisoned and fully deprived of all constitutional rights and guarantees under color and guise of State law. All parties named herein were directly involved with a previously overturned case regarding same and very similar issue(s); PEOPLE V. QUIGLEY (1998) id.

WHEREFORE the petitioner, James Russell Johnson, humbly and respectfully prays for this Honorable Court, Frederick J. Kapala, to hear this Rule 60 motion for reconsideration and grant the petitioner discharge pursuant to writ of habeas Corpus.

Respectfully Submitted;

Date: June 13, 2008

STATE OF ILLINOIS }  
WINNEBAGO COUNTY }

By: James Russell Johnson

MR. James Russell Johnson

MID#1716

650 West State

Rockford, Ill. 61102.

**AFFIDAVIT AND  
NOTICE OF FILING, PROOF  
OF SERVICE**

---

I, James Russell Johnson, presented this Rule 60 motion to reconsider, with exhibit's, for filing with the United States District Court Clerk for the Northern District of Illinois, Western Division. Such was additionally served upon the parties listed below, via United States postal Service, by placing such in adequate addressed envelopes, with paper postage affixed to the same.

To: UNITED STATES DISTRICT CLERK  
211 South Court Street  
Rockford, Illinois. 61101

To: Illinois Attorney General  
Michael M. Glick  
100 W. Randolph Street, 12<sup>th</sup> Floor  
STATE OF ILLINOIS CENTER  
Chicago, Ill. 60601.

Date: June 13, 2008

By: James Russell Johnson

MR. James Russell Johnson

No. 82750 People v. Quigley

Appellate citation: No. 2--95--1643 (unpublished order under Supreme Court Rule 23).

Opinion by NICKELS, J.

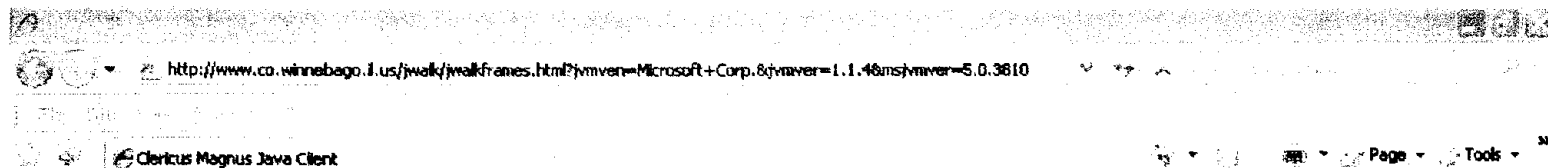
In 1994, a multicar collision on Route 251 at the Village of Machesney Park resulted in a personal injury. One of the drivers involved, the defendant here, failed a field sobriety test and was determined in a breathalyzer test to have a blood-alcohol level of 0.14. He was charged separately with misdemeanor DUI and also with the felony of aggravated DUI, the latter charge being based on the aggravating factor of the personal injury. However, the misdemeanor charge was later dismissed, under the speedy-trial statute, for failure to bring the defendant to trial during the required statutory period.

*Emphasis added here!* In this decision, the supreme court held that the compulsory joinder statute required that these two charges be prosecuted together because they were based on the same incident. Therefore, once the misdemeanor was dismissed, further prosecution of the felony charge was also barred under the speedy-trial statute. The circuit court of Winnebago County had erred in denying a motion to dismiss it.

# CIRCUIT COURT CLERK 17<sup>th</sup> JUDICIAL DISTRICT WINNEBAGO COUNTY

## ON-LINE CASE INFORMATION

**CASE: 1995 CF 00250      PAGE: #2**



Case **1995 CF 00250** VS OUGLEY MICHAEL

**All Case Entries - Last Date Sequence**

Docket Sheet Docket Header Return

4-27-2005	Sentence: 01/27/2005
4-27-2005	No Fine & Cost 00
4-27-2005	Document 2291 Not Printed
4-27-2005	Status:CLOSED Report:Closed Apr 27,2005
4-27-2005	Judge:VIDAL RICHARD W
4-27-2005	Judge COLLINS ROSEMARY M
4-27-2005	THE HONORABLE JUDGE ROSEMARY COLLINS, ROSEMARY J. BIAGI
4-27-2005	PROBATIONARY COURT REPORTER, JUDGE ROSEMARY COLLINS, ROSEMARY J. BIAGI
4-27-2005	JUDGE VIDAL RICHARD W
4-27-2005	STATUS Apr 27, 2005 09:00AM Inst 4 Judge VIDAL
4-27-2005	Judge:VIDAL RICHARD W Rep:THUSING KIM L Clerk:HKC M
4-27-2005	THE HONORABLE JUDGE ROSEMARY COLLINS, ROSEMARY J. BIAGI
4-27-2005	PROBATIONARY COURT REPORTER, JUDGE ROSEMARY COLLINS, ROSEMARY J. BIAGI
4-27-2005	CONTINUED TO ALLOW TIME TO LOOK INTO MATTER
4-27-2005	STATUS Apr 28, 2005 09:00AM Inst 4 Judge VIDAL
4-27-2005	Judge:VIDAL RICHARD W Rep:ABEL JOAN K Clerk:HKC M
4-27-2005	SET FOR STATUS, MANDATE FROM SUPREME COURT RETURNED ON 7/21/98 AND

Biagi's  
Dismissal

Date

4-27-2005

Rosemary  
Collins

4-20-2005

Steven Biagi

and  
**Password=PUBLIC**

Done

Internet

100%

start

229

## TRAFFIC

Time: 10/10/18

Page: 1

2006 TR 030246 Judge:

From 0/00/0000 To 99/99/999

User: MALONEJ

Case Names \_\_\_\_\_ Attorney Names \_\_\_\_\_  
VS

Wsid: CCMPC43G1

All Entries For

JOHNSON JAMES R

Date

6/16/2006 Complaint 02 Count 002 DRIVING ON REVOKED LICENSE Jun 15, 2006

Defendant JOHNSON JAMES R

Statute 625 5/6-303(a) Class A Orig.

Agency: CHERRY VALLEY Ticket#: 24756

6/16/2006 Bond Type Bond On Companion Case Defendant JOHNSON JAMES R  
ARRAIGNMENT Jul 12, 2006 01:30PM Rm2177/12/2006 BENCH WARRANT TO ISSUE Bond \$3000.00  
People of the State of Illinois present by CITY  
ATTORNEY. Defendant fails to appear. Bench  
Warrant to issue. Bond Set at 3,000.00 less 10  
percent. Bench Warrant was issued as ordered on  
06tr30245. Concurrent.  
Document WAR Not Printed4/09/2007 WARRANT RETURNED SERVED  
BENCH WARRANT RETURNED Apr 20, 2007 02:00PM Rm217 Judge HENNESSYNOTE  
4/20/2007 DISMISSAL PRO SEPeople of the State of Illinois present by Assistant State's  
Attorney, CITY ATTORNEY. Defendant appears Pro Se. On the motion  
of the state, case is dismissed. BOND TO BE REFUNDED TO DEFT AT  
NEW ADDRESS 1604 16TH ST. RKFD, 61104. ORDER FILED IN  
06TR30245.

Judge: YOUNG JOHN H Clerk: CMC M

4/20/2007 Disposition 02/00 Count 002 No Fine & Cost Signed Judge YOUNG JOHN H  
Defendant JOHNSON JAMES R Asst States Attorney CITY ATTORNEY  
Disposition: Dismiss/State Motion DRIVING ON REVOKED LICENSE  
Disposition Type: Court Action Defendant Plea: No Plea Entered  
Statute 625 5/6-303(a) Class A Orig.  
Sentence: 04/20/2007  
No Fine & Cost .00  
Status: CLOSED Report: Closed Apr 20, 2007  
Judge: YOUNG JOHN H

9)

CC-75

STATE OF ILLINOIS  
CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT  
WINNEBAGO COUNTY

FILED

Date: 4/20/07

Thomas A. Klein  
Clerk of the Circuit Court

By CC Deputy  
Winnebago County, IL

The City of Cherry  
Valley

-vs-

James R. Johnson

Case No. 06TR30245-48

ORDER

The charges are dismissed on ~~the~~ motion  
of state's attorney.

All cases 06TR 030245, 030246, 030247 +  
030248 ARK hereby dismissed

Dated: 4-20-07

[Signature]  
JUDGE



SJB

STATE OF ILLINOIS  
IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
COUNTY OF WINNEBAGO

THE PEOPLE OF THE STATE OF ILLINOIS  
Plaintiff,

v.

JAMES R. JOHNSON (D.O.B. 10-9-66),  
Defendant.

No. 07 CF 1671

**COPY**

**BILL OF INDICTMENT**

The Grand Jury charges:

That on or about 15 June 2007, in the County of Winnebago and State of Illinois, JAMES R.

**JOHNSON** committed the offense commonly called **AGGRAVATED DRIVING AFTER REVOCATION**, in that he drove or was in actual physical control of a motor vehicle upon a highway in this state at a time when his driving privileges were revoked, in violation of 625 ILCS 5/6-303, the revocation being for a prior conviction for the offense commonly called Driving While Under the Influence of Alcohol, and his having previously been convicted of the offense commonly called Driving after Suspension or Revocation in Winnebago County Illinois on 18 February 1993, 30 January 1998, 2 February 1998, 26 June 1998 and 1 July 1999, and in DeKalb County, Illinois on 17 May 2005 and also on 17 May 2005 for a separate offense, in violation of 625 ILCS 5/6-303(d-3). (Class 4 Felony - Minimum term of imprisonment of 180 days - Extended Term eligible - Mandatory consecutive sentence to 03 CF 2192)

**FILED**

Date: 5/2/07

Thomas A. Klein  
Clerk of the Circuit Court

By [Signature] Deputy  
Winnebago County, IL

A TRUE BILL

George W. Gabor  
Foreperson



## STATE OF ILLINOIS

## CIRCUIT COURT OF THE 17th JUDICIAL CIRCUIT

## WINNEBAGO COUNTY

FILE STAMP

James Russell JohnsonPetitioner

- VS -

Richard MeyerRespondentCase No. 2007 MR 744

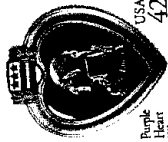
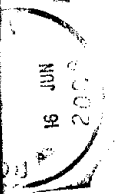
## ORDER

This cause coming before the court on Petitioner's Motion for Summary Judgment, the Petitioner present from custody pro se, the Respondent by Assistant State's Attorney Gregory M. Minger, the Court fully advised after hearing, IT IS HEREBY ORDERED:

- 1) The Motion for Summary Judgment is denied;
- 2) There being no contested issue of fact, the petition for habeas corpus relief is dismissed on the court's motion.

Dated: 6/3/08  
JUDGE

James Russell Johnson  
650 W. State  
Rockford, Ill. 61102.



United States District Court Clerk  
211 South Court Street  
Rockford, Illinois, 61101.

Legal  
mail

61101+1213-93 5010

